

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Octavius Matthews**
P. O. Box 383
Lanett, AL 36863

From: **Birmingham District Office**
Ridge Park Place
1130 22nd Street
Birmingham, AL 35205

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2019-00892

Glenda J. Muldrow,
Investigator

(205) 212-2138**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**
☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

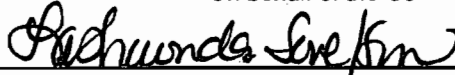
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Bradley A. Anderson,
District Director

APR 10 2019

Enclosures(s)

(Date Mailed)

cc:

Waffle House, Inc.
Valencia Porter, Corporate Labor Relations
5986 Financial Drive
Norcross, GA 30071

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 420-2019-00892	
_____ and EEOC State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) Octavius Matthews		Home Phone (Incl. Area Code) (706) 373-4448	
Date of Birth 1989			
Street Address P.O. Box 383, Lanett, AL 36863		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name WAFFLE HOUSE		No. Employees, Members 15 - 100	
Phone No. (Include Area Code)			
Street Address 580 Fob James Drive, Unit 1248, Valley, AL 36854		City, State and ZIP Code	
Name		No. Employees, Members	
Phone No. (Include Area Code)			
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 12-10-2018 12-25-2018 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>My sex is male. I was hired by the above-named employer on August 7, 2017, as a salesperson. I performed the duties of cook and salesperson. I performed my job in a satisfactory manner and reached sales goals. During my employment I was subjected to less favorable treatment than female workers as it relates to work schedules, assigned shifts, and policies. District Manager D Pak was always rude when I complained of favoritism towards the female employees as if it was a bother to him. I also made several complaints of disparate treatment through the corporate hotline to no avail.</p> <p>On December 10, 2018, co-worker Tierra (LNU) asked if she could work my scheduled shift on December 12, 2018, of which I refused. I later learned I had been removed from the schedule. On December 11, 2018, I asked Unit Manager Cierra Fleminster about the change and she stated she changed the schedule because I had a complaint and needed to work on my attitude. I was scheduled as a salesperson the next day, December 13, 2018.</p> <p>On December 19, 2018, I worked as a cook on night shift and completed all my job duties. I also helped co-worker Anna (Last Name Unknown- LNU), a salesperson, with cleaning dishes because co-worker Alayna (LNU) failed to show for her scheduled shift. On December 20, 2018, I worked as a salesperson. When I clocked in Ms. Fleminster talked to</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DATE _____ (month, day, year)	
Date Charging Party Signature 03/11/19 Octavius Matthews		RECEIVED U.S. EEOC MAR 13 2019 Birmingham District Office	

EEOC Form 5 (11/09)

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Agency(ies) Charge No(s):



FEPA



EEOC

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and EEOC

State or local Agency, if any

me about how I left the workplace, lies from Anna and Tansy, and allegations that I was calling corporate on her because only one salesperson showed up to work. The only job duty I did not do was the floor. Ms. Fleminster showed favoritism towards the female workers and wrote me up for not doing the side work.

On December 25, 2018, I worked morning shift, 6:00 am, and I informed District Manager D Pak that I needed to go home at 5 pm because I was not feeling well. He made a joke and was otherwise unresponsive. I reminded him around noon and he responded you already told me that. On this day I was the only salesperson consistently working and D Pak was leaving at 4pm and it was his intention for me to stay at work and be unanswered. I clocked out a 5 pm as I had told him earlier and went home. Shortly thereafter, I got a message to return to the store, however, I had showered and taken medication. D Pak, who was unresponsive until I left the store, then informed me this was the Christmas schedule and it's not going to change. He further stated either return to work or I'm done. My employment ended December 25, 2018.

I believe that I was discriminated against based on my sex and retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

03/11/19

Date

XOckamunz Matthews

Charging Party Signature